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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/731,997	12/09/2003	Paul D. Bennett	BENN01NP	5868

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EXAMINER

CASTELLANO, STEPHEN J

ART UNIT	PAPER NUMBER
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3727

DATE MAILED: 07/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/731,997

Applicant(s)

BENNETT ET AL.

Examiner

Stephen J. Castellano

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-45 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-45 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-7, 13-24, and 30-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Connolly in view of Chiu.

Connolly discloses a fluid storage tank and method of assembly comprising a tank frame and a tank liner, the tank frame has a plurality of vertical supports, a plurality of lower cross members and a plurality of upper cross members, the vertical supports have upper and lower brackets, as stated in the specification in col. 1, lines 59-66 a bracing not shown may be used to provide a collapsible structure with a clevis pin and spring retaining clip, as stated in col. 1, line 67 – col. 2, line 1, the fittings and fixings may be of molded PVC. The brackets allow relative angular motion between the vertical supports and the upper and lower cross members, respectively. Each upper cross member is placed within a liner sleeve as such sleeves are detailed in Fig. 3a, 3b, 3c and 3e and the arrangement shown in Fig. 1 shows that each upper cross member is supported. Connolly teaches the invention except for the polygonal shape. Chiu teaches a polygonal shape for both the liner and the configuration of the upper cross members and upper brackets. It would have been obvious as a matter of design choice to modify the shape to be polygonal to provide an aesthetically pleasing appearance. It would have been obvious to modify the configuration of the lower cross members and lower brackets to be a polygon of the same size and number of sides as the upper configuration to provide a

corresponding size and shape to insure that the vertical supports are perfectly upright and the entire frame structure is well aligned.

Re claim 3 and 20, it would have been obvious to provide less than 110 pound weight of the liner and frame and the capacity of greater than 1000 gallons would have been obvious as a matter of engineering optimization by using lightweight yet high strength materials and optimization of the height and width dimensions to provide the desired capacity.

Re claims 5-7, 22-24, 40 and 41, Official notice is taken that providing a carrying container for a portable structure is well known. It would have been obvious to provide a carrying container to provide the convenient and efficient transport of the fluid storage tank.

Re claims 34-37, Official notice is taken that fire fighting is well known and the use of portable fluid storage tanks to assist in fire fighting is also well known. It would have been obvious to use the portable fluid tank for fire fighting since the components are light in weight, high in strength and easy to assemble, disassemble and transport.

Claims 8-12 and 25-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Connolly in view of Chiu as applied to claims 1 and 17 above, and further in view of Gillebaard, Jr. ('702) (Gillebaard).

The combination discloses the invention except for the bracket tabs received within the open end of a cross member. Gillebaard teaches a similar fluid storage tank with PVC pipe connections. As shown in Fig. 3 and 4, the pipe connector forming a bracket at the top of each vertical support is shaped to be smaller at its tabs such that it is received within the open ends of the upper cross members. It would have been obvious by design choice to modify the tab ends of the upper brackets to be of smaller configuration than the open ends of the upper cross


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members to conceal the tab ends when the frame is constructed to provide an aesthetically pleasing appearance.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen J. Castellano whose telephone number is 571-272-4535.

The examiner can normally be reached on increased flexibility plan (IFP).

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Stephen J. Castellano
Primary Examiner
Art Unit 3727

sjc